



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

RCH/SPN/HDM/CRH
F. #2018R01309

*271 Cadman Plaza East
Brooklyn, New York 11201*

May 23, 2022

By ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Rashid Sultan Rashid Al Malik Alshahhi, et al.
Criminal Docket No. 21-371 (S-1) (BMC)

Dear Judge Cogan:

The parties respectfully submit this proposed joint agenda for the status conference in the above-captioned matter scheduled for May 24, 2022, at 12:30 p.m.

- Arraignment on the Superseding Indictment: A grand jury sitting in the Eastern District of New York issued a superseding indictment in this case on May 16, 2022 (the "Superseding Indictment"). The parties request that the Court arraign the defendants on the Superseding Indictment at the status conference.
- Outstanding and Forthcoming Motions: There are several pending motions before the Court, including the defendants' motion to dismiss the indictment, the defendants' motion to compel discovery, the defendants' motion to unseal certain law enforcement reports and the defendants' motion for certain grand jury material. In light of the Superseding Indictment, the defendants will renew their motions to dismiss as to the Superseding Indictment promptly. The parties have met and conferred and the only remaining motions that the parties currently anticipate are a possible motion to sever the trial by Matthew Grimes and motions in limine.
- Production of Rule 16 Material: The government continues to produce discoverable material to the defendants on a rolling basis pursuant to Federal Rule of Criminal Procedure 16. At this stage, the government has produced the vast majority of discoverable material currently in its possession. The government will continue to collect, review and produce new discoverable material on a rolling basis as it comes into the government's possession. The parties have also conferred regarding various discovery-related requests and will continue to do so.

- Trial Schedule: On May 4, 2022, the government sent a letter to defense counsel proposing a scheduling order for the upcoming trial. See Exhibit A. The parties met and conferred on May 6, 2022, and May 19, 2022, regarding a proposed schedule. The parties agree on the schedule for the jury questionnaire, voir dire proceedings, jury instructions, verdict sheet, and the final pretrial conference.

Proposed jury questionnaires	August 1, 2022
Proposed jury instructions and verdict sheet deadline	August 5, 2022
Initial juror empanelment proceedings to complete juror questionnaires	August 8, 2022
Joint letter identifying strikes for cause and supplemental voir dire questions	August 26, 2022
Final pretrial conference	August 29, 2022

- The parties, however, disagree as to when Jencks Act or 18 U.S.C. § 3500 material, Rule 26.2 material, exhibits, and the parties' list of witnesses should be disclosed. Although the government believes it is not required by law to do so, the government proposed early disclosure of Jencks Act material and a witness list by August 5, 2022, five weeks before the expected opening of trial on September 12, assuming jury selection is concluded by September 9. The government also proposed that the defendants likewise agree to early disclosure of any statements of defense witnesses and a list of such witnesses, pursuant to Rule 26.2, by the same date. The government also proposed providing exhibits by August 5, 2022. Defense counsel requested that the government provide Jencks Act material and a list of witnesses 90 days prior to trial, by June 7, 2022, with defense disclosures of Rule 26.2 material and a list of witnesses 30 days prior to trial, by August 7, 2022. Defense counsel also requested government disclosure of exhibits 60 days prior to trial, by July 7, 2022, with defense disclosure 30 days after, by August 7, 2022.

Government Proposal	Defense Proposal
<u>EXHIBIT LISTS</u> <ul style="list-style-type: none"> • The parties' case-in-chief exhibit lists by August 5, 2022. 	<u>EXHIBIT LISTS</u> <ul style="list-style-type: none"> • The government's case-in-chief exhibit list by July 7, 2022. • The defendants' case-in-chief exhibits by August 7, 2022.

<p><u>WITNESS LISTS</u></p> <ul style="list-style-type: none"> • The parties' witness lists by August 5, 2022. 	<p><u>WITNESS LISTS</u></p> <ul style="list-style-type: none"> • The government's witness list by June 7, 2022. • The defendants' witness lists by August 7, 2022.
<p><u>WITNESS STATEMENTS</u></p> <ul style="list-style-type: none"> • The government's Jencks Act material by August 5, 2022 • The defendants' Rule 26.2 material by August 5, 2022. 	<p><u>WITNESS STATEMENTS</u></p> <ul style="list-style-type: none"> • The government's witness statements and interview reports (of both testifying and non-testifying witnesses) by June 7, 2022. • The defendants' Rule 26.2 material by August 7, 2022.

- Motion for a Curcio Hearing: On May 13, 2022, the government filed a letter advising the Court of two potential conflicts of interest involving counsel for the defendant Thomas Barrack. See Dkt. No. 104. On May 17, 2022, the defendant Thomas Barrack responded to the government's letter stating that there are no potential conflicts of interest. The government respectfully requests that the Court set a date for a hearing pursuant to United States v. Curcio, 680 F.2d 881 (2d Cir. 1982), and determine whether Mr. Barrack waives these potential conflicts. Mr. Barrack respectfully requests that the Court allow these issues to be resolved through Mr. Barrack's representation that he has waived any potential conflicts raised in the government's motion, without holding a Curcio hearing.
- Next Conference: The parties respectfully request that the Court schedule a status conference the week of July 20, 2022, and the final pretrial conference on August 29, 2022.

Respectfully submitted,

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Trial Attorney

cc: Counsel for Thomas Joseph Barrack (by ECF)
Counsel for Matthew Grimes (by ECF)
Clerk of the Court (BMC) (by ECF)